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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TOMMY STEWART,

Petitioner,

vs.

CALVIN JOHNSON, *et al.*,

Respondents.

Case No. 2:21-cv-01490-APG-BNW

**UNOPPOSED MOTION FOR AN
EXTENSION OF TIME TO FILE THE
RESPONSE TO PETITIONER'S REPLY TO
THE ANSWER TO THE REMAINING
CLAIMS IN THE SECOND AMENDED
PETITION FOR WRIT OF HABEAS
CORPUS (ECF NO. 50)
(SECOND REQUEST)**

Respondents, through legal counsel, Aaron D. Ford, Attorney General of The State of Nevada, and Michael J. Bongard, Senior Deputy Attorney General, hereby move this court for a thirty (30) day enlargement of time, up to and including January 10, 2023, in which to submit the response to the reply to the answer to the remaining claims in Petitioner Tommy Stewart's Second Amended Petition for Writ of Habeas Corpus (ECF No. 50). The response is currently due December 11, 2023. Respondents base this motion on the declaration of Counsel.

This is Respondents' second request for an extension of time in which to file the response and made in good faith and not for purposes of delay.

DATED this 7th day of December, 2023.

AARON D. FORD
Attorney General

By: /s/ Michael J. Bongard
Michael J. Bongard (Bar No. 007997)
Senior Deputy Attorney General

DECLARATION OF MICHAEL J. BONGARD

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2 1. I am a Senior Deputy Attorney General employed by the Attorney General's Office of the
3 State of Nevada in the Post-Conviction Division, and I make this declaration on behalf of Respondents'
4 Motion for Enlargement of Time to file the response to the reply to the answer to the remaining claims
5 in Petitioner Tommy Stewart's Second Amended Petition (Second Request) in the above-captioned case.
6 In this motion, I am requesting a thirty (30) day enlargement of time, up to and including, January 10,
7 2023, to file and serve the response to the reply to the answer. The response is currently due
8 December 11, 2023.

9 2. Since November the previous extended deadline (November 9, 2023), Counsel filed a
10 Notice of Election to Retry in *Leeds v. Russell*, et al., USCD case number 3:15-cv-00261-LRH-CLB, on
11 December 6, 2023. On December 7, 2023, Counsel is filing the answer to the state habeas petition in
12 *Henry v. Warden*, Seventh Judicial District Court case number HC-2308007 (White Pine County).

13 3. Counsel also is drafting the answering brief in *Carter v. State*, Nevada Supreme Court
14 case number 85520, and the answering brief in *Flores v. Gittere*, et al., Ninth Circuit case number 23-
15 16047. The draft of the brief in *Flores* will be completed December 8, 2024, and Counsel will be asking
16 for a second enlargement of time in *Carter*.

17 4. Counsel was also preparing for a murder trial starting January 9, 2024, in *State v. Range*
18 and *State v. Escalante*, Seventh Judicial District Court case numbers CR-1910104 and CR-1910105
19 (White Pine County), until the Court continued the trial on November 28, 2023, at the request of one of
20 the defense attorneys. Counsel also appeared on December 4, 2023, in the Ely Justice Court for a small
21 claims hearing in *Cobb v. State of Nevada, ex rel, NDOC*, case number 23-SC-00038-7k, and is preparing
22 for an evidentiary hearing in the state habeas case of *Wilson v. Russell, et al.*, Eleventh Judicial District
23 Court case number 21CV-WR1-2021-0052 (Mineral County), set for December 22, 2023, in Hawthorne,
24 Nevada.

25 5. Counsel was out of the office on Annual Leave from November 20-24, 2023, and was out
26 of the office on sick leave on November 30 and December 1, 2023.

27 6. On December 6, 2023, Counsel contacted Shelly Richter, representing Stewart, who stated
28 that she does not oppose this request.

1 For these reasons, Counsel respectfully asks this Court to grant the Second Unopposed Motion
2 for an Extension of Time of thirty (30) days, until January 10, 2024, to file the response to the reply in
3 this matter.

4 DATED this 7th day of December, 2023.

5 By: /s/ Michael J. Bongard
6 Michael J. Bongard (Bar No. 007997)
7 Senior Deputy Attorney General

8 **IT IS SO ORDERED:**

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10 UNITED STATES DISTRICT JUDGE

11 Dated: December 7, 2023
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